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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Deployment of Wireline Services Offering) CC Docket No. 98-147
Advanced Telecommunications Services)

COMMENTS OF SPRINT CORPORATION

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Sprint Corporation hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned docket.¹

I. INTRODUCTION AND SUMMARY

Sprint has dual interests in the outcome of this proceeding. Sprint's long distance subsidiary has recently announced its revolutionary Sprint ION service, which will bring Sprint's long-haul ATM network all the way to a customer premises and will accommodate the entirety of a customer's communications needs, including voice, data and Internet access, through a single broadband connection. The xDSL services that are the focus of this proceeding are one possible means of broadband access to Sprint ION, particularly for small business and residential customers. Thus, Sprint has an interest in having ILECs deploy xDSL services as widely and quickly as possible. In addition, Sprint's local telephone division (LTD) is an incumbent local exchange carrier, regulated by this Commission as a dominant carrier and subject to the full panoply of ILEC

¹ FCC 98-188, released August 7, 1998. Portions of that item also constituted a Memorandum Opinion and Order (MO&O) addressing certain issues raised in the petitions of various parties that were also captioned in the item.

requirements in Section 251(c) of the Communications Act of 1934, as amended (“the Act”). Sprint LTD will be subject to the ground rules for such services that are developed in this proceeding.

Sprint welcomes the determinations in the MO&O that advanced services, when offered by ILECs, are fully subject to the requirements of Section 251(c), that the Commission lacks statutory authority under §706 of the Telecommunications Act of 1996 to forbear from enforcing §251(c) and §271 of the Act, and that it cannot grant large-scale changes in LATA boundaries to allow RBOCs to evade §271 of the Act with respect to advanced services.

However, Sprint disagrees with the Commission’s tentative determination in the NPRM that if an ILEC does not offer advanced services such as xDSL directly, but instead does so through an affiliate, the affiliate is not a “successor or assign” of the ILEC and thus is not subject to the requirements of §251(c) of the Act. Clearly, even if no transfer of assets has taken place, the decision to create an affiliate and allow that affiliate to offer exclusively services that would otherwise fall within the purview of the ILEC’s activities suffices to make the affiliate a successor or assign. Sprint also believes that with the passage of time and continuing technological advances, new ways of offering services, such as xDSL technology, may simply become the norm and supplant old ways of delivering services to consumers. Thus, the ILEC affiliates offering what may seem like “advanced” services today are in reality supplanting the operations and traditional functions of the ILECs and must be considered successors or assigns of the ILECs. Moreover, there is ample evidence that ILECs do not need this option of offering xDSL services through an unregulated subsidiary in order to encourage them to make

xDSL offerings available. On the contrary, five of the six largest ILECs are already offering xDSL services directly.

Whether or not the Commission ultimately permits the ILECs to create separate affiliates for the offering of advanced services, Sprint fully agrees that collocation must be made easier and less expensive than it often is today and proposes a number of actions the Commission should take to this end. Sprint also believes that the Commission should take several additional steps to guarantee that xDSL-capable loops are widely available to those who wish to purchase them as unbundled network elements (UNEs).

II. PROVISION OF ADVANCED SERVICES THROUGH A SEPARATE AFFILIATE CANNOT CIRCUMVENT THE OBLIGATIONS OF §251(c)

In ¶86, the Commission expresses a commitment “to ensuring that an optional alternative pathway is available for incumbent LECs that are willing to offer advanced services on the same footing as any of their competitors” and proceeds (in ¶¶90-114) to propose or request comment on the structural separation requirements that would suffice to preclude an ILEC affiliate from being considered a “successor or assign” of an ILEC under ¶251(h)(1), and thus exempt from the obligations of §251(c). In addition, the Commission tentatively concludes that such an affiliate providing interstate exchange access services should be presumed to be non-dominant and should be exempt from the requirement to file tariffs for its provision of any interstate exchange access services (¶100). Sprint opposes the Commission’s tentative approach to the provision of advanced services of ILEC affiliates. Sprint believes the Commission is wrong in concluding that an ILEC affiliate offering advanced services in the ILEC territory should not be considered a successor or assign of the ILEC. Sprint also believes that it is not

necessary to hold out this unregulated alternative to ILECs in order to induce them to offer advanced services.

**A. An ILEC's Use Of An Affiliate As The Vehicle For Offering
"Advanced Services" Within Its Region Renders The Affiliate
A "Successor Or Assign" Of The ILEC (¶¶85-94)**

Sprint disagrees with the Commission's fundamental premise that in circumstances where an ILEC itself does not offer "advanced services," it can do so through a separate affiliate without rendering the affiliate a "successor or assign" of the ILEC. ILECs have plenary authority to offer communications services within their franchised territories. Any determination not to offer new types of services, or not to install new types of equipment, but rather, to utilize a separate subsidiary or affiliate to do so, necessarily reflects a conscious determination on the part of the ILEC (or its parent) to assign that portion of the ILEC's business to the subsidiary or affiliate. But for the ILEC's (or its parent's) determination to create a new entity and assign a portion of the local service business responsibilities to that entity, those opportunities would remain within the purview of the ILEC. This intra-corporate decision to use a new entity to offer services that are within the traditional purview of another entity clearly makes the new entity a successor or assign of the ILEC regardless of whether any assets are transferred. Indeed, that is the common meaning of the terms "successor" and "assign."² Allowing

² Webster's Third New International Dictionary (Unabridged 1976 ed.) defines "successor" as "a person who succeeds to a throne, title or estate or is elected or appointed to an office, dignity, or other position vacated by another." The preferred definition (*id.*) of "assign" is the following definition of "assignee": "one to whom a right or property is legally transferred." Here the advanced services affiliate is "elected" by the ILEC (or its parent) to a position "vacated" by the ILEC – the right to offer advanced local services – and therefore is a "successor" of the ILEC. The affiliate is likewise the one "to whom a right [namely, the right to provide advanced local services] is transferred" and thus is an assignee even if no transfer of property is involved.

the ILEC to transfer more than just the right to provide the service in question, e.g., any facilities, equipment or other assets, simply reinforces the fact that the affiliate is a successor or assign.

On the other hand, if an ILEC offers xDSL services directly, but also offers such services (or other, integrated packages of service that build upon such services) through an affiliate, the underlying advanced service would remain subject to §251(c), and there may be no reason to treat the affiliate as a successor or assign.³ In such circumstances, however, the Commission must ensure that the affiliate cannot receive preferential treatment from the ILEC vis-à-vis unaffiliated carriers with respect to rates, terms and conditions.

Apart from the legal infirmities of the Commission's use of the terms "successor" and "assign," it would be unwise for the Commission, as a policy matter, to adopt the NPRM's narrow view of "successor or assign." The most obvious result of the Commission's proposal would be to relieve the separate affiliate of the obligations on ILECs imposed by §251(c). The Commission elsewhere recognizes (¶¶73 and 76) that §251(c) is of central policy importance and a cornerstone of the 1996 Act. It is thus illogical to allow an ILEC to evade these central responsibilities through use of a separate affiliate. This illogic is compounded by the recognized fluidity of the term "advanced services." The Commission, in ¶3, defines that term to mean wireline, broadband telecommunications services that rely on digital subscriber line technology and packet switched technology. In turn, the Commission recognizes that "broadband" simply

³ See Sprint's May 1, 1998 Comments in CC Docket No. 98-39 for a discussion of the types of ILEC/affiliate relationships that should or should not result in subjecting the affiliate to §251(c).

means sufficient capacity to transport large amounts of information and recognizes (n.4) that “[a]s technology evolves, the concept of ‘broadband’ will evolve with it: we may consider today’s ‘broadband’ services to be ‘narrowband’ services when tomorrow’s technologies appear.” Broadband services, digital loops, and packet switched technologies do not, in and of themselves, offer anything that is remarkably different than the existing services of ILECs. They offer the capability of carrying voice calls and various forms of digital data (e.g., fax, Internet access) that are already offered in different forms and/or at different transmission speeds today. Sprint in no sense wishes to downplay the convenience to consumers from the additional capabilities that broadband services will afford. However, the fact is that broadband capability in the local network is simply an evolutionary progression in technology. In fact, many ILECs are already using xDSL services today to provision T-1s, and have offered local packet-switched transport for many years.

Thus, it may be difficult, if not impossible, to distinguish between the “advanced” services that are offered to consumers and the traditional offerings of the ILECs. Indeed, as more and more “advanced” technology is deployed, it may simply become the predominant medium for originating and terminating the conventional services of today. As time goes on, more and more of the local services would be provided by the ILEC affiliate and exempt from §251(c), and less and less service would remain subject to the cornerstone requirements of that section. In these circumstances, a ruling that a separate affiliate of an ILEC is not a successor or assign for “advanced services” could vitiate §251(c), and would amount to a pro tanto forbearance from §251(c), which the

Commission concedes (in ¶77) that it has no authority to grant until that section has been fully implemented.

There is another important policy reason to encourage ILECs to offer xDSL services directly. As will be discussed in Section IV, below, there are numerous economic and technical difficulties that may arise from reliance by competitors on the use of UNEs, loops and collocation as a means of providing xDSL-based services. It may be that in some circumstances, resale of ILEC-offered xDSL services or UNE access to the underlying facilities is the only practical means of offering xDSL-based services, e.g., in areas served by small central offices with few end users. If the Commission wishes to promote widespread use of the ILEC infrastructure and competition among advanced service providers, having the ILECs offer xDSL services directly and making them available for resale may be the best way to achieve that goal.

B. Creation Of The Data Affiliate Alternative For ILECs Is Not Necessary To Induce Them To Deploy xDSL Services

Undoubtedly, a motivating factor behind the Commission's determination to propose the unregulated affiliate alternative was the belief that ILECs may need more incentives than they already have to deploy advanced services technology.⁴ Sprint believes that there is no foundation for an argument that existing regulation gives ILECs insufficient incentives to invest in and deploy new technology. On the contrary, price

⁴ See e.g., Statement of Commissioner Tristani at 1: "I support today's action to provide incentives for all wireline carriers to deploy high bandwidth services more quickly than they would otherwise." See also Separate Statement of Commissioner Ness at 1: "We must ensure that high-bandwidth services roll out as quickly as the technology and the economics allow. Progress must not be impeded by inadequate competition or excessive regulation."

cap regulation was intended, in part, to provide ILECs additional incentives to innovate.

See Policy and Rules Concerning Rates for Dominant Carriers, 5 FCC Rcd 6786, 6790 (1990).

Moreover, there can be no legitimate concern that it is unfair to subject new services to the wholesale discount and unbundled element strictures of §251(c). In the first place, those requirements are national policy, enacted by Congress with the approval of the President. Second, the wholesale discount requirement allows the ILECs to make every bit as much of a profit from the resale of their services as they make on the direct sale of those services to consumers. The discount only reflects costs not incurred when selling to another carrier instead of to an end user. And under the Commission's standards for unbundled network element pricing, ILECs are entitled to recover their full forward-looking costs, including a risk-adjusted return on their investment. Thus, the ILECs' new investments in advanced services technology should be fully recoverable under a forward-looking cost standard such as TELRIC.

Not only do the ILECs have adequate economic incentives to deploy new technology under existing regulation, but they also have practical business incentives to do so as well. New technology can enable them to offer additional and better services more cheaply. And the burgeoning growth in data traffic provides ample incentive to introduce services that enable data to bypass traditional circuit switches so as to avoid congestion in those switches and to avoid expensive investments in new circuit switching capacity.

The conclusive evidence that ILECs do not need the option of a deregulated affiliate as an inducement to invest in and deploy xDSL services is the ILECs' own

behavior. Five of the six largest ILECs – Bell Atlantic, BellSouth, GTE, SBC and U S West – have filed tariffs offering xDSL services.⁵ It is noteworthy that two of these carriers – Bell Atlantic and SBC – were among those who had previously filed petitions requesting forbearance under §706 and had argued that forbearance of these and other requirements was necessary for them to have an adequate incentive to deploy such services. It is equally noteworthy that three of these carriers either filed their initial xDSL tariffs or increased the scope of their xDSL offerings after the release of this NPRM – i.e., after the Commission held out the possibility of a deregulated offering through the separate subsidiary device.⁶

Frankly, Sprint is surprised that any ILEC would have proceeded to make an offering of xDSL service once the first of the §706 petitions had been filed. At the time, Sprint expressed its concern that the very pendency of those petitions would induce all ILECs to refrain from making any service offerings until the “rules of the game” had been firmly established.⁷ And the fact that, under the NPRM, it may be difficult or impossible for an ILEC to qualify for unregulated treatment of an affiliate’s xDSL services if it transfers facilities and equipment to such an affiliate could have been ample reason for ILECs to delay their direct offerings of such services or to avoid expanding those offerings to additional operating areas. The fact that ILECs have continued to file

⁵ U S West has filed xDSL tariffs in some of its states. The rest have filed with the Commission.

⁶ See Bell Atlantic Tr. No. 1076, filed September 1, 1998 (initial offering); BellSouth Tr. No. 476, filed August 18, 1998 (initial offering); and GTE System Telephone Companies Tr. No. 260, filed August 28, 1998 (extending previous offering to additional GTE ILECs).

⁷ See Sprint’s April 6, 1998 Comments in CC Docket Nos. 98-11, et al., at 16.

for the introduction or expansion of their xDSL offerings after the NPRM is, in Sprint's view, conclusive proof that they have ample incentives to offer such services under the existing regulatory regime applicable to ILECs.

III. THE COMMISSION SHOULD PROMOTE COMPETITION IN THE LOCAL MARKET THROUGH REVISION OF COLLOCATION REQUIREMENTS

In the NPRM, the Commission seeks comment on actions it should take to promote competition in advanced services, regardless of whether ILECs choose to offer advanced services through a separate affiliate (see ¶84). In ¶¶123-150, the Commission seeks comment on the establishment of additional rules regarding collocation. Sprint wholeheartedly supports that effort. Collocation today can be an unnecessarily slow and exorbitantly expensive process which clearly has a dampening effect on competition in the local exchange and exchange access markets. Sprint fully supports appropriate additional rules and agrees with the Commission's tentative conclusion (¶124) that such rules should serve as minimum requirements, allowing the states flexibility to adopt additional requirements that respond to state-specific issues.

Before turning to the issues relating to equipment types and space, there is a threshold issue that should also be addressed by the Commission. Carriers seeking to provide advanced services through collocation need to know, from a technical viewpoint, what the addressable market may be for advanced services in the area served by a particular central office. To that end, ILECs should provide, on request, available (or reasonably obtainable) information with respect to a particular central office regarding average loop length, the percentage of customers that reside within 18,000 feet of the central office, the percentage of customers served by any type of digital line

concentrators, geographic areas where there are limitations on the deployment of xDSL equipment due to “electrical noise” considerations, or any other limitations or restrictions that would prevent the deployment of xDSL equipment.

A. Collocation Equipment (§§126-135)

Sprint agrees with the Commission’s tentative conclusion in §129 that ILECs should not be permitted to place unnecessary restrictions on the type of equipment competing carriers may collocate.⁸ Sprint continues to oppose mandatory collocation of traditional circuit switching equipment.⁹ However, advances in technology increasingly blur the line between data routing functionalities, termination functionalities, and traffic transport and multiplexing functionalities. New generation equipment that performs multiple functions including routing functions should be allowed in collocation spaces. In this regard, the Commission should make plain that DSLAMs and remote access management equipment can be placed in collocation sites, and that, in order to facilitate remote testing by the requesting carrier, retail services such as POTS lines can be ordered to the collocation space so that the requesting carrier can perform such remote testing. At the same time, Sprint supports the tentative conclusion in §132 that the Commission should continue to decline to require collocation of equipment used to provide enhanced

⁸ In the NPRM, the Commission discusses collocation and unbundling with respect to competitive LECs. Nothing in the Act precludes other types of carriers from requesting collocation or unbundling. Thus, Sprint will discuss these issues as they relate to any requesting carriers.

⁹ Nonetheless, if they wish to do so, ILECs should be free to allow collocation of traditional circuit switches provided that such equipment does not unreasonably exhaust collocation space in the central office.

services, so long as that is the sole function of the equipment. However, where equipment is used for basic service and can be used by a common carrier to provide both basic and enhanced services on an integrated basis, its enhanced-services capability or use should not be grounds for an ILEC refusal to permit its collocation. Furthermore, there should be no restrictions on the type of ILEC facilities or services to which the collocated equipment may be connected (e.g., access, UNEs, etc.).

In ¶129, the Commission also tentatively concludes that if an ILEC chooses to establish an advanced services affiliate, the incumbent must allow requesting carriers to collocate to the same extent as it allows its advanced services affiliate to do so. Although Sprint supports this tentative conclusion, it believes the Commission should not frame this as a limiting condition that an ILEC could use as a basis for prohibiting other carriers from collocating types of equipment that the ILEC's advanced services affiliate does not utilize, or from interconnecting with the ILEC in a manner different than the one the affiliate uses, or from using a different set of UNEs than the affiliate uses.

The Commission raises valid concerns in ¶131 about the possibility that removing restrictions on the types of equipment that can be collocated might enable one party to request all of the available space in a central office and thereby deprive other competitors of an opportunity to collocate. Sprint wholeheartedly supports the tentative conclusion (id.) that the ILEC's advanced services affiliate should not be permitted to collocate its equipment if there is only enough room at the central for one carrier to collocate. Such a rule is necessary to satisfy the Commission's intent not to allow the advanced services affiliate to have any advantages over non-affiliated CLECs. The Commission should make it clear that this is so even if its affiliate is the first CLEC to request collocation

space in the central office. Beyond this requirement, Sprint believes that the problem of space limitations should be dealt with through anti-warehousing conditions, discussed in Section III.B., below.

Sprint agrees with the Commission's tentative conclusion in ¶134 that ILECs have legitimate interests in ensuring that collocated equipment meets adequate safety requirements. In this regard, in ¶135, the Commission asks commenting parties to distinguish between safety requirements and performance requirements which go to reliability and quality of services standards. Sprint believes that requesting carriers should be able to utilize any equipment that meets Bellcore Network Equipment -- Building System (NEBS) Level 1 requirements, which relate to safety. NEBS Level 2 and 3 requirements, on the other hand, go to reliability and quality of service, which is a matter best left to the business judgment of the requesting carrier, and should be of no concern to the ILEC. Bellcore itself states that Level 1 compliance is appropriate for "Competitive Access Provider collocated equipment."¹⁰ With this rule, it may be burdensome and unnecessary to require each ILEC to list all the types of equipment it uses. However, the ILEC clearly should not be able to refuse to accept collocation of equipment types that the ILEC itself uses. Thus, it might suffice to require ILECs to list all non-NEBS-compliant equipment they themselves employ, or, alternatively, if they refuse to permit collocation of non-NEBS-compliant equipment by CLECs, to certify that they themselves do not employ such equipment in any of their central offices.

¹⁰ Bellcore Special Report, SR-3580, Issue 1, November 1995, Network Equipment -- Building System (NEBS) Criteria Levels, p. 1-1.

B. Issues Relating To Collocation Space (§§136-149)

Sprint fully supports the Commission's tentative conclusion in §137 that new rules are needed to reduce the minimum space that must be taken by requesting carriers in central office collocation, so as to maximize the number of CLECs that can be collocated. ILECs should be required to continue to offer caged collocation, as they do today, since a requesting carrier can legitimately desire the security that caged collocation affords. However, there is no justification for requiring carriers to order at least 100 square feet of space, as many ILECs now do. Sprint believes it may go too far to disallow any minimum space requirement (cf. §137). Obviously there needs to be sufficient room to allow an equipment rack to be placed in the cage and to give technicians "elbow room" to service the equipment. Sprint believes that as a practical matter, fifty square feet is a reasonable minimum size for caged collocation, and ILECs should not be allowed to impose a minimum space requirement larger than 50 square feet in their collocation tariffs or interconnection agreements. However, if an ILEC believes it is feasible to allow even smaller minimum-sized cages, it should be permitted to do so.

In addition to caged collocation, ILECs should be required to offer cageless collocation, in which a requesting carrier is entitled to the use of a lockable cabinet. Another liberalized form of collocation is a variant of virtual or cageless collocation, in which a requesting carrier can install and maintain its own equipment, not in separate equipment bays, but commingled with the ILEC and/or CLEC equipment. Sprint believes that this may be entirely feasible and with adequate escort procedures, this

should not present any unusual security problems to the ILEC.¹¹ This and other forms of cageless collocation should impose substantially lower costs on ILECs than traditional caged collocation, and the charges for such collocation must be substantially lower than charges for caged collocation.

In ¶142, the Commission asks whether it can and should require incumbent LECs to remove “obsolete” equipment and “non-critical” offices in central offices to increase the amount of space available for collocation. Sprint believes that if an ILEC has insufficient space available in central offices to meet the demand for collocation, it should be required to take reasonable steps to free up additional space. With respect to equipment, the distinction should not be drawn between “obsolete” and state-of-the-art equipment. Rather, the criterion should be whether equipment either is no longer in active use, or is in minimal use and there is other operational equipment that could accommodate the customers utilizing the older equipment. In such cases, then it is reasonable to require the ILEC to warehouse that equipment at another location. Technological advances have tended to dramatically reduce the size of equipment necessary to perform a given function over time, but as long as the ILEC continues to actively use older equipment in its network, there can be no hard-and-fast rule requiring it to remove that equipment from active service merely to free up additional space.

¹¹ The Commission properly recognizes (in ¶¶140-141) that there are legitimate security issues that arise from collocation. This is true both for caged and cageless collocation. However, Sprint agrees with the Commission’s tentative conclusion in ¶141 that the carriers can resolve security concerns raised by cageless collocation among themselves. If an ILEC appears to impose unreasonable requirements, it should be subject to swift enforcement action.

However, if a requesting carrier is willing to fund replacement of such equipment in order to free up additional space, the ILEC should agree to do so.

Many ILEC central office locations that are “full” (thus precluding physical collocation) may house administrative offices that could easily be sited at other locations. In these cases, relocating the administrative offices may impose net costs on the ILEC, such as the cost of moving and a differential in the cost of leased space as between the existing location and other commercial space. If the requesting carrier is willing to fully compensate the ILEC for these costs, the ILEC should agree to move these administrative offices unless it can show valid business reasons why these administrative offices need to remain where they are. Space freed up in this manner may be usable by more than one carrier. To the extent other carriers later choose to collocate in this central office, they should bear their share of these costs, and the carrier that initially financed these relocations or removals should be given an appropriate refund.¹²

In ¶143, the Commission seeks comment on the recovery of up-front space preparation charges. This issue arises where the ILEC wishes to prepare more space than is needed to accommodate the requesting carrier(s). Ultimately, the ILEC should be able to recover its costs, and it should do so through projections of how much collocation will occur and allocating the cost among the expected number of collocation customers.

In ¶144, the Commission seeks comment on entry barriers posed by delays between ordering and provisioning of collocation space, and asks whether it should adopt rules setting forth specific intervals for information on availability and prices of

¹² Cf. §§24.239-47 of the Rules, which provide for cost-sharing and reimbursement relating to broadband PCS entities that must relocate existing FMS entities from the PCS spectrum bands.

collocation space, as well as for making the space itself available. Sprint believes such rules would be helpful. Sprint proposes that an ILEC should be required to provide quotes as to the date of availability and price of collocation within ten business days after receipt of a request. With respect to the provision of space itself, for space that has already been conditioned, Sprint believes that such space should be provided within 90 calendar days. Where unconditioned space is involved – i.e., there is no previously-conditioned space available for collocation in the central office – ILECs may require more time to prepare the space for collocation, but in no case should that date exceed 180 days.

There is one other potential entry barrier not addressed in the Commission's NPRM. Some ILECs in the past have sought to deny orders for collocation until the carrier has proven that it is fully certificated to do business in the state. Sprint believes that ILECs have a legitimate interest in ensuring that persons ordering collocation will be fully qualified as carriers within a reasonable period of time, but to require state certification to have been completed fully before they can even order collocation is unreasonable. At the very least, a CLEC should be allowed to "hit the ground running" by initiating service as soon as its certificate has been granted, and requiring the granting of the certificate before it can even order collocation space unnecessarily delays its ability to offer service. Furthermore, a carrier need not be a CLEC in order to be entitled to collocate. Thus, some requesting carriers may be interstate-only and need not obtain state certification at all.

With respect to sharing of collocation space, Sprint is concerned that if the Commission adopts TELRIC pricing standards as Sprint proposes, a requesting carrier

could order far more space than it reasonably needs for its own services, with the intent to “share” or sublet that space to others and extract monopoly rents. This is a particular danger in an office that is about to run out of collocation space. Thus, there should be a general requirement that prohibits sharing or subletting of space without the approval of the ILEC, with the proviso that the ILEC’s approval should not be unreasonably withheld. To also guard against creating a cottage industry of space brokers, the first equipment installed in a collocation space should be that of the carrier that initially requested the space.

Sprint supports the tentative conclusion in ¶146 that if an ILEC denies a physical collocation request on the grounds of space limitations, it should not only submit detailed floor plans to state commissions but also agree to allow the carrier seeking collocation to tour its premises. However, Sprint believes that the further reporting requirements proposed in ¶147 may be unnecessarily burdensome on the ILEC, in the absence of any indication that the ILEC is unreasonably withholding space from collocators. Sprint urges that instead, the ILECs be required simply to maintain a current, publicly available list of offices where no space is available.

In addition, both ILECs and other carriers should be prohibited from warehousing central office space. In order to ensure that sufficient space for collocators exists, ILECs should not be able to reserve any space for administrative offices or other non-network purposes. With respect to use of space for network needs, ILECs should be able to reserve space needed for their network within the next year (on a rolling basis), but if such space is not earmarked for such use, it should be available for collocation. By the same token, requesting carriers should be required to make use of their collocation space

(i.e., install equipment connected to the ILEC's network) within six months after the space is ready for occupancy. If they fail to do so, and there is insufficient other space in the office to allow collocation by other requesting carriers, they should have to vacate their space.

IV. LOCAL LOOP REQUIREMENTS

As in the case of the collocation issues discussed above, in the NPRM the Commission seeks comment on whether to impose new rules and standards regarding local loop unbundling, regardless of whether the ILEC chooses to offer advanced services directly or through a separate affiliate. As the Commission observes in ¶152, it has already required the provision of loops conditioned to transmit digital xDSL-compatible signals, and has already directed ILECs to condition existing loop facilities to enable requesting carriers to provide services not currently provided over such facilities. Further (see ¶153), the Commission has already concluded that sub-loop unbundling is technically feasible, even though it has not yet ordered the provision of sub-loop elements, choosing instead to leave this to case-by-case negotiations.

Notwithstanding what the Commission has already ordered, Sprint supports the establishment of additional national rules regarding local loops that should serve as minimum requirements, upon which the states can expand in response to state-specific issues (¶¶154-55).

A. xDSL Loops And Operations Support Systems (¶¶157-158)

If other carriers are to have a realistic opportunity to provide commercially viable advanced services using xDSL-capable loops of ILECs as unbundled network elements, it is necessary that they be able to identify whether the facilities to a particular end-user

premises are xDSL-compatible. Although the Commission's general rules for operations support system functions (§51.391(f) of the Rules) broadly requires OSS access for all interconnection, services and UNEs, Sprint believes some elaboration of OSS requirements, as they pertain to xDSL-capable loops, would be highly desirable.

Specifically, Sprint supports the tentative conclusion in ¶157 that ILECs should provide other carriers with sufficient detailed information about the loop so that other carriers can make determinations about whether the loop is capable of supporting the xDSL equipment they intend to install. To that end, Sprint agrees with the Commission's further tentative conclusion (id.) that ILECs must provide carriers with the same access to operations support systems as the incumbent provides to its advanced service affiliate in order to ensure non-discriminatory access to OSS. However, the Commission should also make clear that parity of treatment is required as between non-affiliated carriers and the ILEC's own retail service provisioning, in cases where ILEC chooses to offer xDSL services directly to consumers. In short, however an ILEC chooses to offer xDSL service, it must provide the same type of information about the loop to unaffiliated carriers as its own internal personnel or affiliates have access to, and within the same time frames.

In ¶158, the Commission seeks comment on the type of information that is currently available to ILECs. Sprint LTD does not have a detailed inventory of existing loops available electronically to itself. Thus, it must determine, on a manual case-by-case basis, whether the loop to a particular premises is xDSL-capable. Sprint agrees with the tentative conclusions in ¶158 that whatever information is available electronically to the ILEC should be available to other carriers as well, and Sprint believes that it is desirable

to encourage the ILECs to develop a database containing an electronic inventory of their loops. However, as noted above, no such database exists at this time for the Sprint ILECs, and it will take some period of time not only to construct the database but to populate it with detailed inventory of xDSL loops.

At this time, Sprint is uncertain how long it would take both to develop a database,¹³ and to populate it with an inventory. Thus, Sprint does not believe it would be appropriate yet for the Commission to establish a date certain by which these activities would have to be accomplished. However, because of the massive amount of work involved in populating the database once it is developed, Sprint believes it would be reasonable to phase in the implementation of the database, similar to the Commission's phased approach to local number portability.¹⁴ For example, the Commission could require the population of the database initially in the top 100 MSAs, set a later date for the second hundred MSAs, and perhaps leave population of the database in remaining areas to bona fide requests.

B. Loop Spectrum Management (§§159-162)

In §§159-161, the Commission raises several questions regarding how to handle interference that could result from using different signal formats on copper pairs in the same bundle. Sprint believes that such substantive standards are best left to a collaborative process among the appropriate industry representatives through established standards bodies. However, Sprint believes it would be helpful for the Commission to

¹³ If other ILECs do not yet have such databases, it might be desirable for the industry to develop a consensus standard for these databases.

¹⁴ See Telephone Number Portability, 11 FCC Rcd 8352 (1996).

establish policies to guide the standards bodies, and to govern the industry until those standards are adopted.

First, two types of standards are needed: those governing the spectral mask of equipment, and those governing the ILEC management of the services that can be placed over bundles of loops (or “binder groups”). As the NPRM observes (n.307 at ¶160), ANSI is actively working on equipment standards. Standards have been adopted for certain forms of xDSL service, and the development of more generic standards is well underway. However, ANSI has not yet assumed the task of developing standards for management of binder groups, and Sprint urges that a reasonable deadline be set for the development of such standards.

Second, once the standards are in place, if a service, technology or piece of equipment results in interference that is inconsistent with those standards or causes actual trouble in existing services of the ILEC (or of other carriers that may have purchased loops in the same bundle of copper wire), then appropriate action must be taken to notify the carrier causing the problem and to allow for corrective action by that carrier. If an ILEC’s claim of interface does not comport with these national standards it should be evaluated by a neutral independent lab and if found by that lab to be inconsistent with the national standards should be presumed to be an unreasonable barrier to competition. The ILEC must respond to the interference claims of a CLEC as promptly as it resolves its own (or its affiliate’s) interference claims.

Third, the Commission also should account for instances in which carriers have already installed technology that does not satisfy the as-yet-unadopted standards. In these instances, the Commission should establish a reasonable future date certain prior to

which these non-standard technologies must be brought into compliance with the new standards. And once the standards are adopted, all new installations should conform with those standards.

Fourth, Commission should also address ILEC conduct during the interim period before industry standards are implemented. With respect to equipment specifications, the ANSI standards developed thus far, if complied with, should suffice to prevent significant issues from arising. With respect to management of binder groups, IELCs should be required to publish guidelines,¹⁵ and must apply these guidelines in a nondiscriminatory manner to all service providers utilizing a particular binder group. The ILEC guidelines should be competitively neutral and not favor the performance of the service, equipment or technology used by the ILEC (or its affiliate). Such competitive neutrality includes, of course, timely provisioning of xDSL-conditioned loops to requesting carriers and allowing the other carriers to use the loop for the particular type of xDSL service that they wish (e.g., HDSL as opposed to ADSL). The guidelines must also be based on technical feasibility criteria and cannot favor the particular technology or service employed by the ILEC (or its affiliate).

The Commission raises important issues in ¶162 regarding the shared use of the same loop for different services. By using a POTS-splitter,¹⁶ it is possible to use a single loop for conventional analog voice service and high-speed xDSL data services. The analog voice signals are routed at the central office to an ordinary circuit switch and the

¹⁵ E.g., how many ADSLs, HSDLs, and ISDNs are permitted within a 50-pair binder group.

¹⁶ This can either be a stand-alone device or can be integrated with an xDSL modem or DSLAM.